



Excise Tax Advisory

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CONVERSION DATE: July 1, 1998

CONSTRUCTION ON LAND OWNED BY CONTRACTOR'S PRINCIPAL STOCKHOLDER

Issued August 11, 1971

Repealed June 30, 2000

What is the relationship, for excise tax purposes, between a construction company and its prime stockholder where the company furnishes labor for construction of a dwelling on property owned by the stockholder?

Taxpayer, a contract and speculative builder, furnished labor for construction of an apartment building on property privately owned by its president and principal stockholder.

Taxpayer objected to the assessment of Retailing business and occupation tax on income from the transaction, arguing that no contract was completed for the work, and that it was an inter-corporate activity.

The department ruled that the construction was a retail sale and properly subject to the Retailing business tax.

RCW 82.04.050 defines "retail sale" in part as:

. . . the sale of or charge made for . . . labor and services rendered in respect to . . . the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers . . . (Emphasis ours.)

The construction work upon the property of the company's president was therefore a retail sale and the charge made therefor was properly subject to the tax.

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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Under RCW 82.04.030 the corporation is a completely separate entity or "person" from the corporate president personally, and any transactions between these two persons are taxable to the same extent as if the close relationship did not exist.

Cancelled June 30, 2000